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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/615,652	07/09/2003	Kristian DiMatteo	1001.1309.103	9311
28/075 7590 11/25/2009 CROMPTON, SEAGER & TUFTE, LLC 1221 NICOLLET AVENUE SUITE 800 MINNEAPOLIS, MN 55403-2420				
EXAMINER				
YABUT, DIANE D				
ART UNIT		PAPER NUMBER		
3734				
MAIL DATE		DELIVERY MODE		
11/25/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/615,652

Applicant(s)

DIMATTEO, KRISTIAN

Examiner

DIANE YABUT

Art Unit

3734

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 August 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 20,22,24-26,34-37 and 39-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 20,22,24-26,34-37 and 39-44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments, see pages 6-7, filed 08/07/2009, with respect to the rejection(s) of claim(s) 20, 22, 25-26, 34-36, and 39-44 under Ravenscroft et al. (U.S. Patent No. 6,007,558) in view of Vargas et al. (U.S. Patent No. 6,419,681), claim 24 under Ravenscroft et al. (U.S. Patent No. 6,007,558) in view of Vargas et al. (U.S. Patent No. 6,419,681) and further in view of El-Nounou et al. (U.S. Patent No. 5,242,462) , and claim 37 under Ravenscroft et al. (U.S. Patent No. 6,007,558) in view of Vargas et al. (U.S. Patent No. 6,419,681) and further in view of Ambrisco et al. (U.S. Patent No. 6,007,557) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Ravenscroft et al. (U.S. Patent No. 6,007,558) and Ambrisco et al. (U.S. Patent No. 6,007,557)
2. Applicant argues that Ravenscroft discloses that weakened regions **30** flex due to a withdrawal force or a specific load, and are not configured to fail or break. However, when the weakened regions are subjected to a more substantial force or repeated force, it is possible for the regions to fail or break. The specified amount of force or "retrieval force" required to break the regions is not explicitly defined by the applicant, and it is possible for the weakened regions of Ravenscroft et al. to break due to a certain amount of force, and therefore meets the limitations of the claims.

Claim Rejections - 35 USC § 102

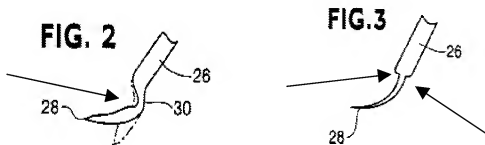
3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

4. Claims 20, 22, 24-26, 34-36, and 39-44 are rejected under 35 U.S.C. 102(a) as being anticipated by **Ravenscroft et al.** (U.S. Patent No. **6,007,558**).

Ravenscroft et al. disclose a conically-shaped filtering basket including a body member or apex **12** including a bore (near **36** in Figure 4), a plurality of substantially straight struts or arms **26** fixedly attached to the body member and extending therefrom, at least some distal tip of the plurality of struts having bends and being configured as an anchoring member **28** directly coupled to the distal end region of that strut of which it is a distal tip by a weakened region or reduced cross-sectional area **30** (annotated by arrows in Figures 2-3 below) immediately proximal of the anchoring member, wherein the weakened region is configured to fail releasing the anchoring member from the distal end region of that strut of which it is a distal tip, thereby separating the distal tip of the strut from the filtering device (see Figures 1-4).



"notch" or "divet" in weakened,
reduced cross-sectional area region

It is noted that although Ravenscroft et al. disclose that the weakened regions **30** flex due to a withdrawal force or a specific load, they may also be "configured to fail" or "configured to break" when a more substantial or repeated force is applied to these regions. The specified amount of force or "retrieval force" required to break the regions is not explicitly defined by the applicant, and it is possible for the weakened regions of Ravenscroft et al. to break due to a certain amount of force, and therefore meets the limitations of the claims.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 37 is rejected under 35 U.S.C. 103(a) as being unpatentable over

Ravenscroft et al. (U.S. Patent No. **6,007,558**) in view of **Ambrisco et al.** (U.S. Patent No. **6,007,557**).

Ravenscroft et al. do not expressly disclose the reduced cross-sectional area being defined by an opening in the strut.

Ambrisco et al. teach a reduced cross-sectional area defined by an opening **318** in a strut **312** which can be useful in allowing a guidewire or hook to pass through for

manipulation of the filter device (Figure 36C and col. 20, lines 1-15). It would have been obvious to one of ordinary skill in the art at the time of invention to provide an opening in the strut, as taught by Ambrisco et al., to Ravenscroft et al. in order to manipulate the filter device by a guidewire or hook.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DIANE YABUT whose telephone number is (571)272-6831. The examiner can normally be reached on M-F: 9AM-4PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Todd Manahan can be reached on (571) 272-4713. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Diane Yabut/
Examiner, Art Unit 3734

/Anh Tuan T. Nguyen/
Supervisory Patent Examiner, Art Unit 3731
11/23/09